

Do you want Custody and/or Visitation orders?

or do you want to CHANGE/ MODIFY your current orders?

FAMILY COURT

HOW TO:

- Ask the Court to make NEW custody and/or visitation orders.
- Ask the Court to CHANGE existing custody and/or visitation orders.

WHEN TO USE:

- You already have a case open in Family Court (Divorce, Legal Separation, Parentage, Child Support, Custody and Support case).
- OR**
- You are filing forms now (with the forms here) to open a case in Family Court. If you want to change orders in an existing Family Law Domestic Violence case you must open a new permanent Family Law case.
 - You CANNOT use these forms if orders have been made in any other court regarding these children (Juvenile Court, or Guardianship in Probate court, for example).

*Self-Service Center, Superior Court, County of Santa Clara, 99 Notre Dame Avenue, San Jose, CA 95113
408-882-2900 x-2926*

www.scselselfservice.org
Santa Clara County
Self-Help website

www.sccsuperiorcourt.org
Santa Clara County
General website

www.courtinfo.ca.gov/selfhelp
State of California
Self-Help website

Rev. 4/19/04

A. Fill out the attached blank forms (type or print neatly in blue or black ink) using the attached sample forms as a guide:

- **Order to Show Cause** (form #FL-300)
- **Application for Order and Supporting Declaration** (form #FL-310)
- **Proof of Personal Service** (form #FL-330)

You can get these forms from the Court's website at www.scservice.org (then click on "Family" and then "Rules/Forms"), you can buy them from Rose Printing (39 N. First St., San Jose 293-8177) or the forms will be provided to you if you come to the Center for help.

If you have an existing case, no matter how old, you may be able to use the same case number and the same case title (the parents will always be Petitioner and Respondent as they were in the first filing). If you are opening a new Family Law case, you are the Petitioner and the other parent is the Respondent.

If you are filing these forms in a Department of Child Support Services (DCSS) child support case (a case with "DA" or "CS" in the number) you will file your papers at Superior Court, Notre Dame Courthouse, 99 Notre Dame Ave., San Jose, CA 95113, 408-882-2900, M-F 8:30 am to 4:00 pm.

If you are filing in a Family Law case (a case with "FL" or "CP" in the number) you will file your papers at Superior Court, Family Division, 170 Park Center Plaza, San Jose, CA, 95113, 408-534-5600, M-F 8:30 am to 4:00 pm.

B. How to File Your Papers – Follow these easy steps *in order*, from 1 to 4:

1. Make **3 copies** of your completed papers (one for You, one for the other parent, and one extra for the DCSS if they are involved in your case, or one for the other parent's attorney if they have one).
2. Bring the original and all the copies to the Calendar office or window in the correct courthouse (see above) and they will give you a **court date**.
3.
 - a. **File your papers** in the **Clerk's Office**. If you are opening a new case or filing in a case you did not open the filing fee plus a hearing fee is **about \$300**. Hearing fees to change custody or visitation are **about \$100**; hearing fees for new custody and/or visitation orders are **about \$75**.
 - b. **If your income is low and you want to ask to not pay the filing fee**, fill out and turn in an **Application for Waiver of Court Fees and Costs** packet (form #982(a)(17) and #982(a)(18)). You can get a packet from the Clerk's office or the Self-Service Center. Sample fee waiver forms are available at the Self-Service Center. Turn your fee waiver forms into the Document Examiner (room 123 if you are filing in Family Court, or at the Document Examiner's window if you are filing at the Notre Dame facility). They will present your forms to the Judge for his or her approval. You will be asked to include at least one paystub. You may be asked to return the **next business day** to pick up your filed papers, or they may be mailed to you.

- 4. Serving the papers** – You **must have filed copies of the papers delivered personally** to the other parent (and their attorney if they have one, and the DCSS if they are a party in the case) at least **21 days** before the court hearing date.

IMPORTANT: You cannot serve the papers yourself

Papers can be served by an adult (18 years or older) who is not a party to the case or by a professional process server (find them in the telephone book).

These are the papers that must be hand-delivered to the other parent:

- A *filed* copy of the **OSC** that has been signed by the Judge
- A *filed* copy of your **Application for Order and Supporting Declaration**, including all attachments.
- If you are filing other papers at the same time, for example to open a new case, they should be served at the same time.

You must also include papers to be used by the other parent to respond to your OSC:

- A **blank Responsive Declaration to Order to Show Cause/Notice of Motion** (form #FL-320) – do not fill it out – it is for the other parent to fill out!

Whoever delivers (“serves”) the papers must complete & sign the **Proof of Personal Service** (form #FL-330) form. The other parent, who receives the papers, does not sign this form. The person who served the other parent gives the Proof of Personal Service to you to file.

IMPORTANT: Bring the original Proof of Personal Service form to the Court with you the day of the hearing or file the original Proof of Personal Service with the County Clerk’s office before the hearing and bring a filed copy of the Proof of Personal Service with you to the hearing.

C. When you come to Court –

Bring a copy of all the papers in your case and also bring documents which help to prove the information in your Declaration. If you have any witnesses, they should also be present.

D. After your Court hearing –

You must write up the Judge’s orders and file them with the Clerk’s office. If you are representing yourself you may be referred to the Family Court Clinic where an attorney will write up your orders. The orders must be served on the other parent by mail if they were not present at the hearing or can be mailed to them if they were at the hearing. Orders are written up on a **Findings and Order After Hearing** (form #FL-340) with a **Child Custody and Visitation Order Attachment** (form #FL-341).

If you still have questions, talk to an attorney for legal advice. Referrals to private and low-cost attorneys are available at the Self-Service Center or on the court’s website.

You must know the court’s local rules. They are available on the court’s website.